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EXAMINER

HENRY, RODNEY M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/631,181	Applicant(s) KOSER ET AL.	
	Examiner RODNEY HENRY	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final office action on the merits. Examiner acknowledges receipt of communications from the Applicant dated August 20th, 2009. Claims 1-22 are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-7, 9-13, 16-18, 20, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Swartz et al. (US 20030132298).**

Regarding claim 1

Swartz et al. discloses a system for executing promotions comprising:

a point-of-sale computer at a checkout counter for processing purchase of items for processing a purchase of items presented to the checkout counter for scanning and identification by the point of sale computer;

a customer interface device at the checkout counter and in communication with the point-of-sale computer for alerting a customer to the existence of a promotion for an item scanned at the checkout counter by the point-of-sale computer and for transferring

details of the promotion to the point-of-sale computer, wherein the details of the promotion appear as barcode data to the point of sale computer; and

a local promotional server wirelessly connected to the customer interface device for sending the details of the promotion to the customer interface display device

(see [para. 0084 via FIG. 4, the portable terminal 100 communicates over a wireless communication network 130. In the illustrated embodiment, the multi-access point 13 (FIG. 1) is incorporated into a controller 150 that functions as the central host to the portable terminal 100. The controller 150 is coupled to an in-store point of sale (POS) controller 160 which may be an IBM 4680/90 or similar computer which includes price information and maintains statistical data as to purchases, discounts, inventory, and promotional information. Although these controllers are shown as physically separated items, they could also be logical distinct software items in a single hardware device).

(see [FIGS 6, 9, para 0211] via The system could also use the information in determining whether to send a promotional message to a customer).

(see [para. 0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database).

(see para. [0052] ...Thus, depending on space requirements, the portable terminal may be used as part of a kiosk to provide a fixed station for presenting pricing data, advertising and customer assistance).

Regarding claim 2

Swartz et al. discloses a central promotional server for sending the details of the promotion to the local promotional server, wherein the local promotional server and the central promotional server are connected by a global network

(see [para. 0065] via FIG 1 and FIG 1A the portable terminal 12F is linked to internet 30. Thus portable terminal 12F can communicate with other terminals linked to the internet, such as server 40 and 50. FIG. 1A is a general block diagram showing information flow in an embodiment of the present invention. The following elements are shown in FIG. 1A: portable terminal 60, store server 62 and 62A, chain server 64, third party administrator server 66, server A 68 and server B 68A).

Regarding claim 3

Swartz et al. discloses a method of delivering a promotion comprising the steps of:

- collecting and storing information about a customer;
- generating a promotion based upon the information about the customer;
- determining that the customer is presenting items for identification and purchase at a checkout counter;
- wirelessly delivering details of the promotion to a customer interface device at the checkout counter;
- receiving item identification at the customer interface device for items presented at the checkout counter for purchase;
- displaying a message to the customer informing the customer that the customer is to receive the promotion;

sending the details of the promotion to a point-of-sale computer at the checkout counters, including sending the details as bar code data;

executing the promotion by the point-of-sale computer.

(see [para. [0176] the system automatically creates a linked page for scanned items including any associated information matching a customer's preference profile).

"(see [para. [0003] systems in which an authorized customer is issued a terminal having an integrated bar code scanner to record merchandise purchases. .. Prior to exiting the store, the information stored in the memory of a scanner is downloaded through a communication port attached to a terminal dispenser, and a printed ticket of the customer's purchases is printed on a printer. The customer then proceeds to a checkout register where the customer tenders payment for the purchased merchandise.

[0004] Commercially available prior art self-checkout systems have employed relatively simple and unsophisticated consumer systems which have generally been limited to providing simple pricing and product identification information)

(see [FIGS 6, 9, para 0211] via The system could also use the information in determining whether to send a promotional message to a customer).

(see [para. 0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database).

Regarding claim 4

Swartz et al. discloses a system for executing promotions comprising:

a point-of-sale computer at a checkout counter for processing purchase of items presented to the checkout counter for scanning and identification;

a customer identification device at the checkout counter;

a local promotional server wirelessly connected to the customer interface device for sending the details of the promotion to the customer interface display device.

wherein the customer interface device displays a message informing a customer that the customer is to receive the promotion for an item presented for purchase and transfers the details of the promotion to the point-of-sale computer for processing by the point-of-sale computer

(see [para. 0084 via FIG. 4, the portable terminal 100 communicates over a wireless communication network 130. In the illustrated embodiment, the multi-access point 13 (FIG. 1) is incorporated into a controller 150 that functions as the central host to the portable terminal 100. The controller 150 is coupled to an in-store point of sale (POS) controller 160 which may be an IBM 4680/90 or similar computer which includes price information and maintains statistical data as to purchases, discounts, inventory, and promotional information. Although these controllers are shown as physically separated items, they could also be logical distinct software items in a single hardware device).

(see [FIGS 6, 9, para 0211] via The system could also use the information in determining whether to send a promotional message to a customer).

(see [para. 0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database)

(see [para. 0065] via FIG 1 and FIG 1A the portable terminal 12F is linked to internet 30. Thus portable terminal 12F can communicate with other terminals linked to the internet, such as server 40 and 50. FIG. 1A is a general block diagram showing information flow in an embodiment of the present invention. The following elements are shown in FIG. 1A: portable terminal 60, store server 62 and 62A, chain server 64, third party administrator server 66, server A 68 and server B 68A).

Regarding claim 5

Swartz et al. discloses the customer interface device further comprising a printer for printing the details of the promotion

(see [para. [0183] Preferably, a printer is linked to the kiosk. The printer would allow a customer to print out coupon offers).

Regarding claims 6

Swartz et al. discloses means for the local promotional server communicating with the customer interface device over a wireless local area network

(see [para 0084] via FIG. 4, the portable terminal 100 communicates over a wireless communication network 130. In the illustrated embodiment, the multi-access point 13 (FIG. 1) is incorporated into a controller 150 ("promo server") that functions as the central host to the portable terminal 100. The controller 150 is coupled to an in-store point of sale (POS) controller 160 which may be an IBM 4680/90 or similar computer which includes price information and maintains statistical data as to purchases, discounts, inventory, and promotional information. Although these

controllers are shown as physically separated items, they could also be logical distinct software items in a single hardware device).

Regarding claim 7

Swartz et al. discloses a central promotional server for sending the details of the promotion to the local promotional server, wherein the local promotional server and the central promotional server are connected by a global network (See FIG. 1).

Regarding claim 9

Swartz et al. discloses the customer identification device includes a card reader. (see [para. [0089] via a card reader on the entrance unit 220 reads the information stored on the card).

Regarding claim 10

Swartz et al. discloses the customer identification device includes a barcode reader (see para. [0040] employing an integrated bar code laser scanner, it will be understood by those skilled in the art that the machine code reader can be a radio frequency identification tag reader).

Regarding claim 11

Swartz et al. discloses the customer identification device includes a keyboard (see para. [0053] FIG. 3 illustrates the basic subcomponent systems of the portable terminal shown in FIG. 2. As shown, the system 70 includes ... data input device 707, ... Data input device 707 could include a keypad, touch screen).

Regarding claim 12

Swartz et al. discloses the customer identification device is coupled to the point-of-sale terminal, and wherein the point-of-sale terminal sends customer identification information to the customer interface device (see para. [0067] ..the customer may enter a store and synchronize his portable terminal by placing it in a cradle at the store ... The portable terminal includes a communications port that links to a communications port on the cradle enabling the bi-directional communication of data. To enable personalized communication between the host computer and the portable device, the host computer must identify the customer).

Regarding claim 13

Swartz et al. discloses the customer identification device is coupled to the customer interface device (see para. [0067] ..the customer may enter a store and synchronize his portable terminal by placing it in a cradle at the store ... The portable terminal includes a communications port that links to a communications port on the cradle enabling the bi-directional communication of data. To enable personalized communication between the host computer and the portable device, the host computer must identify the customer).

Regarding claim 16

Swartz et al. discloses the point-of-sale computer sends item

identification information associated with the items to the customer interface device, wherein the customer interface device sends the item identification information to the local promotional server, wherein the local promotional server determines that the item identification information triggers a discount based upon the

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details of the promotion and sends discount parameters to the customer interface device, and wherein the customer interface device sends a discount transaction to the point-of-sale terminal. (see [para. 0084 via FIG. 4, the portable terminal 100 communicates over a wireless communication network 130. In the illustrated embodiment, the multi-access point 13 (FIG. 1) is incorporated into a controller 150 that functions as the central host to the portable terminal 100. The controller 150 is coupled to an in-store point of sale (POS) controller 160 which may be an IBM 4680/90 or similar computer which includes price information and maintains statistical data as to purchases, discounts, inventory, and promotional information. Although these controllers are shown as physically separated items, they could also be logical distinct software items in a single hardware device).

(see [FIGS 6, 9, para 0211] via The system could also use the information in determining whether to send a promotional message to a customer).

(see [para. 0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database).

Regarding claim 17

Swartz et al. discloses the customer interface device sends the discount transaction to the point-of-sale terminal in bar code data format (see [para .0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database).

Regarding claim 18

Swartz et al. discloses the customer interface device displays advertisements (see para. [0052] ...Thus, depending on space requirements, the portable terminal may be used as part of a kiosk to provide a fixed station for presenting pricing data, advertising and customer assistance).

Regarding claim 20

Swartz et al. discloses a customer interface device comprising:

a processor;

a customer identification device;

a display for displaying a message alerting a customer to a promotion earned by a customer ; and

wireless local area network communication circuitry for communicating with a local promotional server;

wherein the processor receives customer identification information from the customer identification device,

receives from a point of sale terminal purchase item information on an item presented for purchase at the point of sale terminal,

sends the customer identification information and the purchased item information to the local promotional server over a wireless network

receives discount parameters from the local promotional server over the wireless local area network,

displays a message to the customer informing the customer that the customer is to receive the promotion, and sends a discount transaction based upon the discount parameters to the point of sale terminal

(see [para. 0084 via FIG. 4, the portable terminal 100 communicates over a wireless communication network 130. In the illustrated embodiment, the multi-access point 13 (FIG. 1) is incorporated into a controller 150 that functions as the central host to the portable terminal 100. The controller 150 is coupled to an in-store point of sale (POS) controller 160 which may be an IBM 4680/90 or similar computer which includes price information and maintains statistical data as to purchases, discounts, inventory, and promotional information. Although these controllers are shown as physically separated items, they could also be logical distinct software items in a single hardware device).

(see [FIGS 6, 9, para 0211] via The system could also use the information in determining whether to send a promotional message to a customer).

(see [para. 0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database).

(see para. [0052] ...Thus, depending on space requirements, the portable terminal may be used as part of a kiosk to provide a fixed station for presenting pricing data, advertising and customer assistance).

Regarding claim 22

Swartz et al. discloses a method of delivering a promotion comprising the steps of:

- collecting and storing information about a customer;
- receiving customer identification information from a customer identification device;
- receiving purchased item information from a point of sale terminal for an item presented to the point of sale terminal for identification;
- sending the customer identification information and the purchased item information to a local promotional (server) over a wireless local area network;
- determining a promotion based upon the information about the customer by the local promotional server;
- wirelessly receiving discount parameters associated with the promotion from the local promotional server over the wireless local area network;
- displaying a message to the customer informing the customer that the customer is to receive the promotion;
- sending a discount transaction based upon the discount parameters to the point-of-sale terminal

(see [para. 0084 via FIG. 4, the portable terminal 100 communicates over a wireless communication network 130. In the illustrated embodiment, the multi-access point 13 (FIG. 1) is incorporated into a controller 150 that functions as the central host to the portable terminal 100. The controller 150 is coupled to an in-store point of sale (POS) controller 160 which may be an IBM 4680/90 or similar computer

which includes price information and maintains statistical data as to purchases, discounts, inventory, and promotional information. Although these controllers are shown as physically separated items, they could also be logical distinct software items in a single hardware device).

(see [FIGS 6, 9, para 0211] via The system could also use the information in determining whether to send a promotional message to a customer).

(see [para. 0108] via The code could be in the form of a one dimensional barcode for looking up the relevant information in a database).

(see para. [0052] ...Thus, depending on space requirements, the portable terminal may be used as part of a kiosk to provide a fixed station for presenting pricing data, advertising and customer assistance).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 8, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al. (US 20030132298), in view of Sloane (US 5918211).**

Regarding claim 8

Swartz et al. does not explicitly disclose the local promotional server stores

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identification information for loyalty program members, receives customer identification information from the customer identification device, and determines that the customer has earned the promotion.

However Sloane discloses the local promotional server stores identification information for loyalty program members, receives customer identification information from the customer identification device, and determines that the customer has earned the promotion (see [col 2, lines 1-21] via BSTX (10): Another form of distributing product discounts and promotional information to consumers is through the use of a frequent shopper card or similar customer loyalty program. This card enables the store to identify the consumer at the point-of-sale, and keep track of his or her purchasing history).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the local promotional server stores identification information for loyalty program members, receives customer identification information from the customer identification device, and determines that the customer has earned the promotion to the system of Swartz et al.. One would have been motivated to do this in order to effectively manage and administer the promotion program.

Regarding claim 14

Swartz et al. discloses the local promotional server stores first identification information for first loyalty program members, receives customer identification information from the customer identification device, attempts to verify that

the customer is a member of a customer loyalty program by comparing received identification information to the first customer identification information.

However Sloane discloses the local promotional server stores first identification information for first loyalty program members, receives customer identification information from the customer identification device, attempts to verify that the customer is a member of a customer loyalty program by comparing received identification information to the first customer identification information (see [col 2, lines 1-21] via BSTX (10): Another form of distributing product discounts and promotional information to consumers is through the use of a frequent shopper card or similar customer loyalty program. This card enables the store to identify the consumer at the point-of-sale, and keep track of his or her purchasing history).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the local promotional server stores first identification information for first loyalty program members, receives customer identification information from the customer identification device, attempts to verify that the customer is a member of a customer loyalty program by comparing received identification information to the first customer identification information to the system of Swartz et al.. One would have been motivated to do this in order to effectively manage and administer the promotion program.

Regarding claims 19

Swartz et al. does not disclose that the customer interface device completes a sweepstakes registration process.

However, Sloane discloses the customer interface device completes a sweepstakes registration process (see col 5, line 47).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add sweepstakes to the system of Swartz et al.. One would have been motivated to do this as a means of adding to the interest and involvement of shoppers standing in a checkout counter line.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al. (US 20030132298), in view of Sloane (US 5918211), and further in view of Panofsky et al. (US 20020161476).

Regarding claim 15

Swartz et al. does not explicitly disclose the central promotional server stores second identification information for second loyalty program members, and wherein the local promotional server compares the received identification information to the second customer identification information if the received identification information cannot be found in the first customer identification information.

However Sloane discloses the central promotional server stores second identification information for second loyalty program members, and wherein the local promotional server compares the received identification information to the second customer identification information if the received identification information cannot be found in the first customer identification information (see para. [0097] .. central server ...allowing them to track usage and implement/administer brand promotions, advertising,

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and related loyalty programs that award points and related free and/or discounted merchandise to each loyalty program participant).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the central promotional server stores second identification information for second loyalty program members, and wherein the local promotional server compares the received identification information to the second customer identification information if the received identification information cannot be found in the first customer identification information to the system of Swartz et al.. One would have been motivated to do this in order to effectively manage and administer the promotion program.

Response to Arguments

7. The applicant's arguments are moot in light of the new grounds of rejection above.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Henry whose telephone number is 571-270-5102. The examiner can normally be reached on Monday through Thursday from 7:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6102.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMH

/Arthur Duran/

Primary Examiner, Art Unit 3622